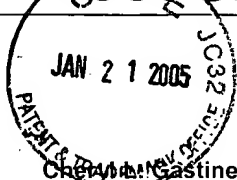


AF

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January 19, 2005

Commissioner for Patents
MAIL STOP APPEAL BRIEF - PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Applicant: RIGA
Title: DEATH CARE MERCHANDISING SYSTEM
Serial No.: 09/698,474
Filed: October 30, 2000
Art Unit: 3621
Examiner: Pierre E. Elisca
Docket No: 02-608-US

Dear Sir:

Enclosed are the following for filing in connection with the above-referenced application:

1. An Appeal Brief;
2. A self-addressed stamped postcard, return of which is requested to acknowledge receipt of the enclosed documents.

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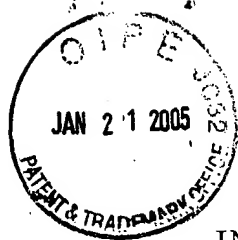
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By


Cheryl L. Gastineau



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

RIGA

Serial No. 09/698,474

Filed: October 30, 2000

Art Unit: 3621

Examiner: Pierre E. Elisca

Attorney Docket No.: 02-608-US

**DEATH CARE MERCHANDISING
SYSTEM**

APPEAL BRIEF

Commissioner for Patents
MAIL STOP APPEAL BRIEF - PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified patent application comes before the U.S. Patent and Trademark Office Board of Appeals and Interferences from the Final Rejection of Claims 1-20 by the Examiner in an Official Action mailed July 21, 2004.

Pursuant to the Notice of Appeal filed November 19, 2004, set forth below is the Appellant's Brief.

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Lori B. Amoroso

Lori B. Amoroso

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I. REAL PARTY IN INTEREST

The real party in interest in the above-identified application is the Assignee, The York Group, Inc.

II. RELATED APPEALS AND INTERFERENCES

No interference is known to the appellant, the appellant's legal representative, or Assignee which will directly affect, be directly affected by or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS

The above-identified application was filed on October 30, 2000 with Claims 1-20. No claim has been canceled or amended.

Claims 1-20 were finally rejected under 35 U.S.C. § 103 in the Final Rejection mailed July 21, 2004. This rejection is hereby appealed.

IV. STATUS OF AMENDMENTS

No response has been filed subsequent to the Final Rejection mailed July 21, 2004.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

As recited in independent claim 1, the claimed subject matter is directed to a method of merchandising both death care products and death care

related products. The method includes providing a plurality of similar display modules arranged in proximity to other similar modules. The display modules 10, 12, 14, 16 (Fig. 1); 32 (Fig. 3); 50 (Fig. 4); 60 (Fig. 5a), 62 (Fig. 5b); 70 (Fig. 6); 80 (Fig. 7); 90 (Fig. 8); 100 (Fig. 9a); 110 (Fig. 9b); 180 (Fig. 10); 120 (Fig. 11); 150, 160, 170 (Fig. 12); 180, 182, 184 (Fig. 13); and 200, 210, 220, 230, 240, 250 (Fig. 14) of the present invention are furniture-like display units as shown in the drawings. The claimed method also includes the steps of displaying in at least one of the modules 100 (Fig. 9a); 110 (Fig. 9b); 180 (Fig. 10); and 200, 210, 220 (Fig. 14) death care merchandise selected from the group consisting of caskets and coffins, miniatures thereof or sectional portions thereof. The claimed method further includes displaying in at least one of said similar modules, death care related merchandise selected from the group consisting of printed materials, videotape or film, CD, DVD, videotape (modules 60, 62, Figs. 5a and 5b; page 7, lines 11-14), keepsakes (module 12, Fig. 1 and module 70, Fig. 6) and floral arrangements (modules 150, 160, 170, Fig. 12).

Dependent claim 2 further includes the printed matter includes cards, stationery, books, pamphlets and literature (page 7, lines 11-14).

Dependent claim 3 further includes the cards and stationery are displayed in one of said modules and the books, pamphlets and literature are displayed in another of said modules (modules 14, 16, Fig. 1; page 5, lines 19-20).

Dependent claim 4 further includes at least one electronic media selected from the group consisting of videotapes, audiotapes, CD and DVD are displayed with modules which displays the books, pamphlets and literature (modules 60, 62, Figs. 5a and 5b; page 7, lines 11-14).

Dependent claim 5 further includes the step of providing a module in which only keepsakes are displayed (module 12, Fig. 1 and module 70, Fig. 6).

Dependent claim 6 further includes the step of providing a module for displaying information only, said information being in the form of books, brochures and visual printed or photographic material (module 80, Fig. 7; module 90, Fig. 8; page 8, lines 9-15).

Dependent claim 7 further includes wherein the step of providing said module includes the step of providing a cabinet in said module to store additional copies of said books or brochures (cabinet 95; page 8, lines 15-16).

As recited in independent claim 8, the claimed subject matter is directed to a death care merchandising system including a plurality of similar modules. The display modules 10, 12, 14, 16 (Fig. 1); 32 (Fig. 3); 50 (Fig. 4); 60 (Fig. 5a), 62 (Fig. 5b); 70 (Fig. 6); 80 (Fig. 7); 90 (Fig. 8); 100 (Fig. 9a); 110 (Fig. 9b); 180 (Fig. 10); 120 (Fig. 11); 150, 160, 170 (Fig. 12); 180, 182, 184 (Fig. 13); and 200, 210, 220, 230, 240, 250 (Fig. 14) of the present invention are furniture-like display units. At least one of the modules 100 (Fig. 9a); 110 (Fig. 9b); 180 (Fig. 10); and 200, 210, 220 (Fig. 14) displays death care merchandise selected from caskets and coffins, miniatures thereof or selections thereof. There is at least one other module for displaying death care related merchandise. The at least one other module includes plastic shelves or holders to display at least one item selected from the group consisting of printed materials, videotape or film, CD, DVD, audiotapes (modules 60, 62, Figs. 5a and 5b; page 7, lines 11-14), keepsakes (module 12, Fig. 1 and module 70, Fig. 6) and floral arrangements (modules 150, 160, 170, Fig. 12).

Dependent claim 9 further includes a module only for displaying said keepsakes (module 12, Fig. 1 and module 70, Fig. 6).

Dependent claim 10 further includes a module for displaying information only (module 80, Fig. 7 and module 90, Fig. 8).

Dependent claim 11 further includes the information is in the form of printed material, and polymeric shelves and a literature holder (literature holders 83 in Fig. 7 and 93 in Fig. 8) are provided in said module to hold said printed matter.

Dependent claim 12 further includes wherein at least one module is provided to contain a display of materials to personalize the interior or exterior of the casket or coffin (module 120, Fig. 11, page 9, lines 7-10).

Dependent claim 13 further includes wherein the materials to personalize include an emblem (106, 107, 108; Fig. 9a) or casket corner (109; Fig. 9a), the modules further including a shelf (104; Figs. 9a, 16, 16b) and angular bracket (106; Fig. 16a) to display said emblem or casket corner (page 9, lines 1-5).

Dependent claim 14 further includes wherein the material to personalize is interior fabric for the casket or coffin, and the module includes a shelf (130, 140; Figs. 19 and 20) for displaying, said fabric, said shelf comprising a protrusion (131, 141; page 9, lines 16-22) extending for said shelf such that the shelf is angled away from said module.

Dependent claim 15 further includes at least one shelf (152; Fig. 17a) for display, or floral arrangement, said shelf having an aperture 153 through said shelf (page 10, lines 7-10).

Dependent claim 16 further includes wherein said aperture is of a size and shape to receive at least one of a vase, an individual stem of a flower or an arrangement of stems of flowers (page 10, lines 7-10).

As recited in independent claim 17, the claimed subject matter is directed to a system of display shelves or holders, said display shelves or holders being formed of a polymeric material (page 10, line 12), the shelves or holders 152 being configured so as to have at least one end 154 insertable into slots in a slot wall, the shelves or holder also including at least one inwardly extending protrusion (131, 141, 273, 274, page 8) to engage the slot wall with the shelves or holder to be angled away from said slot wall.

Dependent claim 18 further includes wherein the polymeric material is transparent (page 7, lines 21-22).

Dependent claim 19 further includes wherein at least one shelf is provided with a movable bookend section 65 (Fig. 15a and 15b).

As recited in independent claim 20, the claimed subject matter is directed to a shelf for a slot wall, said shelf comprising one end for engaging into a slot in said slot wall 151, 161, 171, another end distal from said first end and said slot wall, said shelf defining at least one aperture 153 (Fig. 17a), 105 (Fig. 16b) through said shelf.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-20 stand rejected under 35 U.S.C. § 103 in view of U.S. Patent No. 6,073,320 to Salatin in view of Official Notice.

VII. ARGUMENT

Appellant respectfully submits claims 1-20, as originally presented, are patentable over U.S. Patent No. 6,073,320 to Salatin in view of “Official Notice”.

Claim 1:

The Examiner purports Salatin to disclose a casket display structure a method of merchandising both death care products and death care related products comprising “providing a plurality of caskets” and “displaying in at least one of the death care merchandise selected from the group consisting of caskets and coffins, miniatures thereof or sectional portions thereof.” Appellant respectfully submits Appellant’s claims do not require providing a plurality of caskets. Appellant’s claim 1 recites “providing a plurality of similar modules”. Appellant’s claim 1 does not require “displaying in at least one of the death care merchandise”. In appellant’s claim 1, death care merchandise is displayed in “at least one of a plurality of similar modules.”

The Examiner further purports Salatin to disclose “displaying in at least one of death care related merchandise selected from the group consisting of printed materials, videotape or film, CD, DVD, videotape, keepsakes and floral

arrangements. Applicant should duly note that the death care merchandise of Salatin is a floral arrangement, see Figs. 1 and 2.” Appellant respectfully submit Salatin does not show, disclose, illustrate or suggest in any way floral arrangements. Salatin does not illustrate any floral arrangements in Figs. 1 and 2 or any other figure. The display of Salatin is disclosed as being for caskets and accompanying signage only. Also, appellants submit the display units of Salatin are not “slatwall” units as indicated by the Examiner. The term “slatwall” or “slotwall” are terms used in the art to describe a wall having a series of horizontal slats or slots. Salatin does not have these features.

The Examiner further purports that Salatin fails to include “a module(s) or computer (s) or processor (s) in the slat wall death care merchandise display unit.” Appellant submits that the “modules” of appellant’s claim 1 are not computer related but are referring to the furniture-like modular display units 10, 12, 14, 16, etc. Salatin himself refers to “modular” units used to display caskets (Col. 1, lines 23-26). In his rejection the Examiner takes Official Notice

“that module or computer or processor is well-known in the art, and therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a module or computer or processor in the slatwall death care merchandise display unit of Salatin because such modification would automatically display death care merchandise in funeral product stores.”

Appellant submits the Examiner has taken Official Notice” to modify Salatin to include a feature that is not present in either appellant’s claims or disclosure. The resulting combination of Salatin and the Examiner’s Official Notice fails to meet appellant’s claims. Furthermore, there would be no motivation to

modify the casket display units of Salatin to include “computer display structure which would automatically display death care merchandise in funeral product stores.” Why would one display computers on a display unit specifically designed to display caskets? Appellant’s claimed invention is not concerned with computer displays. Appellant submits, for argument’s sake, that the method of having computers display the specific items of appellant’s claims is not common knowledge or well known in the art and requests the Examiner provide documentary evidence. In light of the Examiner’s use of “Official Notice” to modify the units of Salatin to include a feature that is not present in appellant’s claims and the Salatin reference fails to teach or suggest appellant’s claimed invention, appellant requests reversal of the Examiner’s rejection.

Claims 2-6:

Regarding claim 2, the Examiner purports that Salatin discloses the claimed method of claim 2 it discloses printed matter including “cards, stationary, books, pamphlets and literature” and would be “capable of displaying CD, DVD, books, pamphlets, cards, literature. Appellant submits claim 2 is a method claim which positively recites a method step to be performed. There is no teaching or suggestion for performing this step.

Appellant submits the Examiner has ignored many of the features of the remaining claims. Appellant submits these claims are patentable on their own merit and stand as argued below:

Claim 7:

Claim 7 recites further features that are believed to even more fully distinguish over the applied art. Specifically, appellant respectfully submits the wall display of Salatin lacks a cabinet. Appellant further submits there is no suggestion to modify the display of Salatin to include the method step of providing a cabinet for storing additional copies of books or brochures.

Claims 8-10 and 12:

Appellant's arguments regarding claim 1 also apply to independent claim 8. Regarding claim 8, there is no suggestion or teaching in Salatin or the Examiner's Official Notice for plastic, polymeric, or transparent shelves. The Examiner does not address this feature positively recited in Claims 8.

Claim 11:

Claim 11 recites further features that are believed to even more fully distinguish over the applied art. Specifically, appellant respectfully submits that Salatin or the Examiner's Official Notice do not disclose or suggest a literature holder. The Examiner does not address this feature positively recited in Claims 11.

Claim 13:

Claim 13 recites further features that are believed to even more fully distinguish over the applied art. Specifically, appellant respectfully submits that Salatin or the Examiner's Official Notice do not disclose a shelf and angular bracket to display an emblem or casket corner.

Claim 14:

Claim 14 recites further features that are believed to even more fully distinguish over the applied art. Specifically, appellant respectfully submits that Salatin or the Examiner's Official Notice do not disclose a protrusion extending from a shelf such that the shelf is angled away from the module. The Examiner does not address this feature positively recited in Claims 14.

Claims 15 and 16:

Claim 15 and 16 recite further features that are believed to even more fully distinguish over the applied art. Specifically, appellant respectfully submits that Salatin or the Examiner's Official Notice do not disclose a shelf having an aperture through the shelf. The Examiner does not address this feature positively recited in Claims 15 and 16.

Claims 17 and 18:

Appellant's arguments regarding claim 8 also apply to claim 17. Appellant submits Salatin or the examiner's Official Notice do not disclose or suggest shelves or holders insertable into slots in a "slot wall" nor do they disclose or suggest at least one inwardly extending protrusion included on the shelves or holder to engage the slot wall with the shelves or holder to be angled away from the slot walls. Even if element 92 of Salatin was considered to be a shelf or holder it does not include a protrusion to angle it away from a slot wall. The Examiner does not address this feature.

Claim 19:

Claim 19 recites further features that are believed to even more fully distinguish over the applied art. Specifically, appellant respectfully submits that

Salatin or the Examiner's Official Notice do not disclose a shelf having a movable bookend section. The Examiner does not address this feature.

Claim 20:

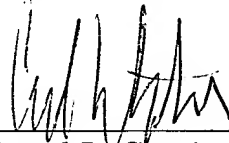
Appellant's arguments regarding claim 8 also applies to claim 20. Appellant submits Salatin or the examiner's Official Notice do not disclose or suggest a shelf insertable into a slot in a "slot wall" nor do they disclose or suggest at least one aperture through the shelf. The Examiner does not address this feature.

In view of the foregoing, it is submitted that the Final Rejection of the Examiner is improper. Accordingly, it is requested that this Board reverse the rejection raised by the Examiner.

Respectfully submitted,

Dated: January 19, 2005

By



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VIII. CLAIMS APPENDIX

1. A method of merchandising both death care products and death care related products; said method comprising:

(a) providing a plurality of similar modules, said modules being arranged in proximity to other similar modules;

(b) displaying in at least one of the modules death care merchandise selected from the group consisting of caskets and coffins, miniatures thereof or sectional portions thereof; and

(c) displaying in at least one of said similar modules, death care related merchandise selected from the group consisting of printed materials, videotape or film, CD, DVD, videotape, keepsakes and floral arrangements.

2. The method of claim 1, wherein the printed matter includes cards, stationery, books, pamphlets and literature.

3. The method of claim 2, wherein the cards and stationery are displayed in one of said modules and the books, pamphlets and literature are displayed in another of said modules.

4. The method of claim 3, wherein at least one electronic media selected from the group consisting of videotapes, audiotapes, CD and DVD are displayed with modules which displays the books, pamphlets and literature.

5. The method of claim 1, including the step of providing a module in which only keepsakes are displayed.

6. The method of claim 1, including the step of providing a module for displaying information only, said information being in the form of books, brochures and visual printed or photographic material.

7. The method claim 6, wherein the step of providing said module includes the step of providing a cabinet in said module to store additional copies of said books or brochures.

8. A death care merchandising system comprising a plurality of similar modules;

at least one of said modules displaying death care merchandise selected from caskets and coffins, miniatures thereof or selections thereof;

at least one other module for displaying death care related merchandise;

said at least one other module including plastic shelves or holders to display at least one item selected from the group consisting of printed materials, videotape or film, CD, DVD, audiotapes, keepsakes and floral arrangements.

9. The death care merchandising system of claim 8, further comprising a module only for displaying said keepsakes.

10. The death care merchandising system of claim 8, further comprising a module for displaying information only.

11. The death care merchandising system of claim 10, wherein said information is in the form of printed material, and polymeric shelves and a literature holder are provided in said module to hold said printed matter.

12. The death care merchandising system of claim 8, wherein at least one module is provided to contain a display of materials to personalize the interior or exterior of the casket or coffin.

13. The death care merchandising system of claim 12, wherein the materials to personalize include an emblem or casket corner, the modules further including a shelf and angular bracket to display said emblem or casket corner.

14. The death care merchandising system of claim 12, wherein the material to personalize is interior fabric for the casket or coffin, and the module includes a shelf for displaying, said fabric, said shelf comprising a protrusion extending from said shelf such that the shelf is angled away from said module.

15. The death care merchandise display system of claim 8, further including at least one shelf for display, or floral arrangement, said shelf having an aperture through said shelf.

16. The death care merchandise display system of claim 15, wherein said aperture is of a size and shape to receive at least one of a vase, an individual stem of a flower or an arrangement of stems of flowers.

17. A system of display shelves or holders, said display shelves or holders being formed of a polymeric material, the shelves or holders being configured so as to have at least one end insertable into slots in a slot wall, the shelves or holder also

including at least one inwardly extending protrusion to engage the slot wall with the shelves or holder to be angled away from said slot wall.

18. The system of claim 17, wherein the polymeric material is transparent.

19. The system of claim 17, wherein at least one shelf is provided with a movable bookend section.

20. A shelf for a slot wall, said shelf comprising one end for engaging into a slot in said slot wall, another end distal from said first end and said slot wall, said shelf defining at least one aperture through said shelf.

IX. EVIDENCE APPENDIX

None

X. RELATED PROCEEDINGS APPENDIX

None